



Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258

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FINAL MINUTES FOR SUMMARY ACTION MEETING Held at 12:00 Noon on August 22, 2005 9545 E. Doubletree Ranch Road • Scottsdale, Arizona

Board Members

Tim B. Hunter, M.D., Chair
William R. Martin III, M.D., Vice Chair
Douglas D. Lee, M.D., Secretary
Patrick N. Connell, M.D.
Ronnie R. Cox, Ph.D.
Robert P. Goldfarb, M.D.
Becky Jordan
Ram R. Krishna, M.D.
Lorraine L. Mackstaller, M.D.
Sharon B. Megdal, Ph.D.
Dona Pardo, Ph.D., R.N.

Call to Order

William R. Martin III, M.D. Vice Chair, called the meeting to order at 12:01 p.m.

Roll Call

The following Board Members were present: Patrick N. Connell, M.D., Ronnie R. Cox, Ph.D., Robert P. Goldfarb, M.D., Becky Jordan, Ram R. Krishna, M.D., Douglas D. Lee, M.D., Lorraine L. Mackstaller, M.D., William R. Martin, III, M.D., Sharon B. Megdal, Ph.D., and Dona Pardo, Ph.D., R.N.

The following Board Members were absent from the meeting: Tim B. Hunter, M.D.

Call to the Public

Statements issued during the Call to the Public appear beneath the case referenced.

The Call to the Public was concluded at 12:02 a.m.

Time Specific Matter					
NO.	CASE NO.	COMPLAINANT V PHYSICIAN		LIC. #	RESOLUTION
1.	MD-05-0681A MD-05-0605A MD-05-0013A	AMB	SUDHIR K. GOEL, M.D.	27103	Summarily suspend the license. The suspension is stayed until 5:00 p.m., by which time Dr. Goel must provide an affidavit that he has a licensed healthcare professional to act as a chaperone and he shall inform the Board if the licensed healthcare professional leaves his employment and who the replacement will be.

Sudhir K. Goel, M.D. was present with legal counsel, Mr. Pete Fisher.

Kathleen Muller, Physician Health Program Manager, presented the case to the Board. She informed the Board that on August 10, 2005 Dr. Goel entered into a consent for an interim order for psychosexual evaluations and a chaperone. On August 19, 2005 Board staff reviewed his charts. Ms. Muller stated that his office staff signed some of the charts, but on most of the charts the signatures were illegible. There was no indication that a licensed healthcare provider was present with Dr. Goel in the room when he examined female patients. Ms. Muller stated that Board staff observed Dr. Goel alone in an examination room with a female patient. Dr. Goel has admitted that he does not currently have a licensed healthcare provider in the room when he sees or examines female patients, in

accordance with his Interim Order. Dr. Goel stated that office staff, including a medical assistant, is present in the room when he sees female patients. Dr. Goel has placed an advertisement for a licensed healthcare provider, but has not received any response. Compliance staff notified Dr. Goel that he was not in compliance with the terms of his agreement. Dr. Goel replied that he thought he would have a reasonable amount of time to hire a licensed practical nurse to serve as a chaperone. Ms. Muller informed the Board that the consent agreement for the Interim Order was effective immediately on August 10, 2005. Additionally, Ms. Muller informed the Board that Dr. Goel could have used alternatives to comply with the terms of his consent agreement such as referring all female patients to the other physician in the office or contacted a temporary staffing agency to hire a licensed healthcare provider.

Mr. Fisher made a statement to the Board. He informed the Board that there was a misunderstanding for which he takes full responsibility. Mr. Fisher was present during the investigative interview, during which time Dr. Goel was offered the interim consent agreement. He did not understand that Dr. Goel was to cease seeing all female patients immediately. Mr. Fisher believed Dr. Goel would have a reasonable amount of time to find a licensed healthcare provider and advised him to use his best efforts to hire one. Dr. Goel put an advertisement in the Sunday *Arizona Republic* and on the Internet, but so far, he has only received one response. Dr. Goel has scheduled an interview with that person. On the request of Board staff Mr. Fisher wrote a letter describing how Dr. Goel would make compliance with the terms of his interim consent agreement. At this point, Dr. Goel has stopped all well women exams since 8/8/05; he continues to have the medical assistant with him at all times; and he has contacted a temporary agency, at the suggestion of Board staff. Mr. Fisher stated that a nurse would report to Dr. Goel's office at noon today. Mr. Fisher provided the name of the nurse and stated that her license is current. Dr. Goel has signed an agreement to pay a fee if he hires through the agency. Dr. Goel is taking this situation very seriously and cancelled all female patient appointments. Mr. Fisher apologized for the misunderstanding. Dr. Goel has taken the interim order seriously and has done everything Mr. Fisher has advised him to do.

Robert P. Goldfarb, M.D. asked for clarification from Ms. Muller regarding the effective date of August 10th interim consent agreement. He asked if when Board staff went to the office on August 19th they viewed the doctor in the room with a female physician without a chaperone. Lorraine Brown, Senior Compliance Officer, stated that she viewed the doctor in the room without a chaperone, but she did not ask the doctor about her observance at that time.

Ronnie R. Cox, Ph.D. clarified that the board order specifically said the order was effective August 10, 2005.

Lorraine L. Mackstaller, M.D. questioned whether it was the understanding of both the attorney and the physician that the interim consent agreement would not be in effect immediately. Mr. Fisher stated during negotiations that occurred during the investigative interview, it was never discussed when the hire would need to be made. He stated that it was assumed that Dr. Goel would be provided a reasonable time to come into compliance. Mr. Fisher instructed Dr. Goel that he needed to make a serious effort to get someone hired right away. Mr. Fisher stated that he did not recall the issue of Dr. Goel immediately ceasing from seeing female patients being discussed.

Ram R. Krishna, M.D. stated the Board has a history of taking violations of Board orders very seriously. The convenience of finding a chaperone is not the issue. There was no excuse for not following the terms of the interim consent agreement. Douglas D. Lee, M.D. agreed with Dr. Krishna. He stated the interim consent agreement was very clear and there should not have been misunderstandings. He did not see any ambiguity.

Dr. Goel made a statement to the Board. He stated that he wants to show the Board that he negotiated the order in good faith with staff. No one mentioned he had to immediately stop seeing female patients. He has taken every step possible to comply and that he stated he has not seen a patient without a chaperone present. Dr. Goel also stated that he does not know what Ms. Brown saw when Board staff was at the office. He stated that he might have asked a female patient to go in the room while he reviewed the chart, but he never started seeing a patient without a chaperone. Dr. Goel stated that he has documented this with each and every patient without exception. Dr. Goel added that he was not aware that he could hire a registered nurse in one day through a temporary agency. Additionally, if it had been mentioned to him, Dr. Goel could have asked his wife, who is a physician, to assist or he could have cancelled his appointments. Dr. Goel has spent three hours on the phone on Friday to hire a temporary licensed healthcare provider and they have agreed to send someone that day. He has asked his wife to see all female patients if a chaperone is absent. Dr. Goel stated that he had discussed the chaperone issue with Mr. Fisher and they believed he had two weeks or at least until Friday to comply. Dr. Goel assured the Board that he has not done any well-woman examinations and going forward, he will always have a chaperone present. Dr. Goel stated that when he read the interim consent agreement he did not realize that he had to stop seeing female patients right away. Dr. Goel apologized for the misunderstanding and stated it was not intentional. He stated that the board wants to protect the public and that he wants to protect himself. He understands how this will damage his career. Dr. Goel requested that the Board not to hold this against him as he has taken every step to ensure this would not happen again.

Patrick N. Connell, M.D. stated that after reading the materials that any physician who has been exposed to the amount of scrutiny as Dr. Goel has would take this sort of allegation seriously. Dr. Connell stated that it was disingenuous to attribute his failure to comply with the interim consent agreement to bad advice from his attorney. Dr. Connell stated that he felt the doctor has not given indication that he has taken the matter involving sexual improprieties and the interim consent agreement seriously.

MOTION: Patrick N. Connell, M.D. moved that for the protection of the public, Dr. Goel be summarily suspended pending a formal hearing.

SECONDED: Ronnie R. Cox, Ph.D.

Melissa Cornelius, Assistant Attorney General, offered legal advice to the Board. She stated that the attorney's avowal that Dr. Goel has requested a nurse from the temporary agency might remove the imminent risk the doctor poses to the community. This is an

important finding that must be included in any summary suspension action. When the Board summarily suspends a physician with an existing order the formal hearing does not go into the underlying reason for the initial order, but would only go to prove there was a violation of the order. In this case, the violation will be resolved with the arrival of the licensed nurse Dr. Goel has hired. Ms. Cornelius advised that the Board could take a summary action pending confirmation that he has obtained a licensed professional who will sign his charts as a chaperone. If proof were not obtained by 5:00 p.m. the summary suspension would go into effect. Ms. Cornelius stated that if the nurse begins today, she does not believe there is an imminent risk to the public to support a summary action.

Ram R. Krishna, M.D. suggested that the Board stay the suspension until 5:00 p.m. to provide time for the physician to comply with the interim consent agreement. Ms. Cornelius stated that was an appropriate action. She also informed the Board that it had the option of imposing discipline, but not today. If the Board felt a stay of suspension was necessary, and that the doctor could provide proof of compliance, it would be legally consistent.

Douglas D. Lee, M.D. questioned how the Board could be assured that the chaperone would continuously be present and how would the Board know when that person was no longer employed. Dr. Lee stated that he wanted to be sure there would be no future misunderstanding of the Board's order. Ms. Cornelius stated that Board staff could continue to make unannounced visits. Additionally, the physician is under the obligation to inform the Board if he is not able to retain a licensed healthcare professional, as he is required.

Dr. Connell asked if it would be appropriate to have this licensed person sign an affidavit that she understand that she is to chaperone all female patients and if she leaves her employment that she so advise the Board. Board staff could measure compliance at that time.

MOTION: Patrick N. Connell, M.D. moved to summarily suspend Dr. Goel for the protection of the public, that the suspension be stayed until 5:00 p.m. until the affidavit is received by the licensed healthcare professional indicating that she is to chaperone all female examinations, from start to finish, that Dr. Goel performs and note that in the chart. If the professional leaves Dr. Goel's employment she would so advise the Board.

Dr. Krishna stated that the Board would not have jurisdiction over the licensed healthcare professional. He suggested that the doctor be responsible for informing the Board if she left the practice. Sharon B. Megdal, Ph.D. stated that she agreed with Dr. Krishna.

AMENDED MOTION: Patrick N. Connell, M.D. amended his motion to reflect that Dr. Goel provide an affidavit that he has a licensed healthcare professional to chaperone his female patients and that he will inform the Board if the licensed healthcare professional leaves his employment and who the replacement chaperone would be.

William R. Martin, M.D. asked what would happen if the physician failed to provide the signed affidavit by 5:00 p.m. Ms. Cornelius stated that the summary suspension would go into effect and that the physician would be summarily suspended from practice.

Dr. Megdal clarified that if the Board summarily suspended the license, it would trigger a formal hearing. Additionally, she clarified that if this chaperone left his employment, Dr. Goel could not see female patients until he obtained another licensed healthcare provider. Ms. Cornelius stated that the order indicates that he is not allowed to see female patients without a chaperone and that if the chaperone leaves his employment he may not see female patients until he has found a replacement. Dr. Megdal asked if it was reasonable to expect this case to come back to the Board for consideration of discipline for violation of a Board order. Ms. Cornelius stated that staff is investigating the underlying conduct and that case will come back to the Board. Additionally, if the Board chose to summarily suspend the doctor and if he could later show compliance, the Board could vacate that order.

SECONDED: Sharon B. Megdal, Ph.D.

ROLL CALL VOTE: Roll call vote was taken and the following Board Members voted in favor of the motion: Patrick N. Connell, M.D., Robert P. Goldfarb, M.D., Becky Jordan, Ram R. Krishna, M.D., Douglas D. Lee, M.D., Lorraine L. Mackstaller, M.D., William R. Martin, III, M.D., Sharon B. Megdal, Ph.D., and Dona Pardo, Ph.D., R.N. The following Board member voted against the motion: Ronnie R. Cox, Ph.D. The following Board Member was absent: Tim B. Hunter, M.D.

VOTE: 9-yay, 1-nay, 0-abstain/recuse, 1-absent

MOTION PASSED

The Board adjourned at 12:36 p.m.

[Seal]

Timothy C. Miller, J.D., Executive Director